
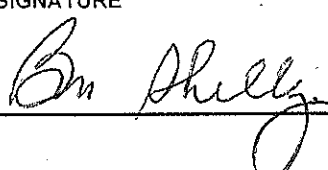


# RETURN TO EPA, MTS-7

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	<b>U.S. ENVIRONMENTAL PROTECTION AGENCY</b>  <b>Cooperative Agreement</b>	ASSISTANCE ID NO.			DATE OF AWARD 09/23/2008
		PRG	DOC ID	AMEND#	
		V - 96987601 - 0			
		TYPE OF ACTION New			MAILING DATE 09/30/2008
RECIPIENT TYPE: Indian Tribe		Send Payment Request to: Las Vegas Finance Center, Fax (702) 798-2423			
RECIPIENT:		PAYEE:			
Navajo Nation P.O. Box 646 Window Rock, AZ 86515 EIN: 86-0092335		Navajo Nation P.O. Box 646 Window Rock, AZ 86515			
PROJECT MANAGER		EPA PROJECT OFFICER		EPA GRANT SPECIALIST	
Cordell Shortey P.O. Box 646 Window Rock, AZ 86515 E-Mail: cshortey@omb.navajo.org Phone: 928-871-6470		Jeff Inglis 75 Hawthorne Street, SFD-9 San Francisco, CA 94105 E-Mail: Inglis.Jeff@epa.gov Phone: 415-972-3095		Fareed Ali Grants Management Office, MTS-7 E-Mail: Ali.Fareed@epa.gov Phone: 415-972-3665	
<b>PROJECT TITLE AND DESCRIPTION</b> <b>SUPERFUND CONSOLIDATED COOPERATIVE AGREEMENT</b> This Consolidated Cooperative Agreement will support the Navajo Nation by funding Preliminary Assessment Site Investigation (PA/SI) activities, and for the Support Agency Cooperative Agreement (SACA) to support activities related to the cleanup of the Northeast Church Rock site. This assistance agreement provides full federal funding in the amount of \$430,000 of which \$110,905 is set-aside for an Inter-Personnel Agreement (IPA).					
BUDGET PERIOD 10/01/2008 - 09/30/2009		PROJECT PERIOD 10/01/2008 - 09/30/2009		TOTAL BUDGET PERIOD COST \$430,000.00	TOTAL PROJECT PERIOD COST \$430,000.00
<b>NOTICE OF AWARD</b>  Based on your application dated 07/03/2008, including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA), hereby awards \$319,095. EPA agrees to cost-share <u>100.00%</u> of all approved budget period costs incurred, up to and not exceeding total federal funding of \$430,000. Such award may be terminated by EPA without further cause if the recipient fails to provide timely affirmation of the award by signing under the Affirmation of Award section and returning all pages of this agreement to the Grants Management Office listed below within 21 days after receipt, or any extension of time, as may be granted by EPA. This agreement is subject to applicable EPA statutory provisions. The applicable regulatory provisions are 40 CFR Chapter 1, Subchapter B, and all terms and conditions of this agreement and any attachments.					
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)			AWARD APPROVAL OFFICE		
ORGANIZATION / ADDRESS			ORGANIZATION / ADDRESS		
U.S. EPA, Region 9 Grants Management Office, MTS-7 75 Hawthorne Street San Francisco, CA 94105			U.S. EPA, Region 9 Superfund Division, SFD-1 75 Hawthorne Street San Francisco, CA 94105		
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY					
SIGNATURE OF AWARD OFFICIAL Digital signature applied by EPA Award Official		TYPED NAME AND TITLE Jane Diamond, Assistant Regional Administrator		DATE 09/23/2008	
<b>AFFIRMATION OF AWARD</b>  BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION					
SIGNATURE  Vice President		TYPED NAME AND TITLE Joe Shirley, Jr., President		DATE NOV 04 2008	

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FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 319,095	\$ 319,095
EPA In-Kind Amount	\$	\$ 110,905	\$ 110,905
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$	\$ 0
State Contribution	\$	\$	\$ 0
Local Contribution	\$	\$	\$ 0
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 430,000	\$ 430,000

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.802 - Superfund State Political Subdivision and Indian Tribe Site Specific Cooperative Agreements	CERCLA: Sec. 104(d)(1)	40 CFR PTS 31 & 35 SUBPT O

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	089AK8S095	08	T	9AK0S	302DC6E	4185	09MZRS00	C001	30,000
-	089AK8P081	08	T	9AK0P	302DD2E	4185	09ZZQB00	C089	110,905
-	089AK8P081	08	T	9AK0P	302DD2E	4185	09ZZQB00	C089	289,095
									430,000

## Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$148,791
2. Fringe Benefits	\$49,384
3. Travel	\$41,292
4. Equipment	\$0
5. Supplies	\$21,095
6. Contractual	\$0
7. Construction	\$0
8. Other	\$169,438
9. Total Direct Charges	\$430,000
10. Indirect Costs: % Base	\$0
11. Total (Share: Recipient 0.00 % Federal 100.00 %.)	\$430,000
12. Total Approved Assistance Amount	\$430,000
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$430,000
15. Total EPA Amount Awarded To Date	\$430,000

## **Administrative Conditions**

### ADMINISTRATIVE CONDITIONS #1-13 AND PROGRAMMATIC CONDITIONS #P1-P5.

1. An interim Financial Status Report (FSR), Standard Form 269A (Rev. 7/97), covering the period from "project/budget period start date" to September 30 of each calendar year shall be submitted to the Grants Management Office, MTS-7, no later than December 31 of the same calendar year.

The final FSR covering the entire project period shall be submitted to the U.S. EPA Las Vegas Finance Center, PO Box 98515, Las Vegas, NV 89193-8515, within 90 days after the end of the project period according to the recipient's respective Code of Federal Regulations Part 30.52(a)(1)(iv) and 30.71(a), or Part 31.23(b) and 31.41(b) (as applicable). The LVFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Financial Status Report. Recipients will be notified and instructed by EPA if they must complete any additional forms for the closeout of the assistance agreement.

The recipient shall identify actual in-kind IPA expenditures on a separate page and attach it to the Financial Status Report(s). If applicable, the recipient must satisfy the match requirements for the expended EPA in-kind amount.

2. The recipient will provide timely reporting of cash disbursements and balances through annual submission (January - December) of a Federal Cash Transactions Report (SF272 and SF272A). The appropriate reports must be submitted to the Las Vegas Finance Center within 15 working days following the end of each calendar year. The recipient may access these forms and the instructions for submission at <http://www.epa.gov/ocfo/finservices/payinfo.htm>.

3. In accordance with OMB Circular A-133, which implements the Single Audit Act, the recipient hereby agrees to obtain a single audit from an independent auditor if it expends \$500,000 or more in total Federal funds in any fiscal year. Within nine months after the end of a recipient's fiscal year or 30 days after receiving the report from the auditor, the recipient shall submit a copy of the SF-SAC and a Single Audit Report Package. **For fiscal periods 2002 to 2007 recipients are to submit hardcopy to the following address:**

Federal Audit Clearinghouse  
1201 East 10<sup>th</sup> Street  
Jeffersonville, IN 47132

**For fiscal periods 2008 and beyond the recipient MUST submit a copy of the SF-SAC and a Single Audit Report Package, using the Federal Audit Clearinghouse's Internet Data Entry System. Complete information on how to accomplish the 2008 and beyond Single Audit Submissions you will need to visit the Federal Audit Clearinghouse Web site:**  
<http://harvester.census.gov/fac/>.

4. The recipient agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises in procurement under assistance agreements as set forth in 40 CFR Part 33. The EPA DBE rule can be accessed at <http://www.epa.gov/osbp>. In addition, the recipient agrees to make good faith efforts whenever procuring construction, equipment, services and supplies under an EPA assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply with 40 CFR Section 33.301. Records documenting compliance with the six good faith efforts shall be retained.

Pursuant to 40 CFR, Section 33.412, Tribal and Insular Area recipients are not required to negotiate fair share goals with EPA until May 27, 2011. Thereafter, Tribal and Insular Area

recipients are required to adhere to the full requirements of 40 CFR, Part 33, Subpart D, as applicable.

A recipient of a Continuing Environmental Program Grant or other annual grant agrees to create and maintain a bidders list. A recipient of an EPA financial assistance agreement to capitalize a revolving loan fund also agrees to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Refer to 40 CFR Section 33.501 (b) and (c) for specific requirements and exemptions.

5. The recipient agrees to complete and submit to the Grants Management Office, MTS-7, a MBE/WBE Utilization Report (EPA Form 5700-20A), within 30 days after the end of the semi-annual reporting period; i.e., by April 30 and October 30 of each calendar year. Negative reports are required. Recipients of financial assistance agreements that capitalize revolving loan programs agree to require entities receiving identified loans to submit their MBE/WBE participation reports on a semiannual basis to the financial assistance agreement recipient, rather than to EPA. Only procurements with certified MBE/WBEs are counted towards a recipient's MBE/WBE accomplishments. A final MBE/WBE report must be submitted within 90 days after the end of the project period. Your grant cannot be officially closed without all MBE/WBE reports. EPA Form 5700-52A may be obtained from the EPA Office of Small Business Program's Home Page on the internet at [www.epa.gov/osbp](http://www.epa.gov/osbp).

6. When procuring services, equipment, and/or supplies under this assistance agreement, the recipient will follow the same policies and procedures it uses for procurements from its non-Federal funds. The recipient will follow their own procurement policies and procedures provided that the policies and procedures conform with EPA regulations 40 CFR Part 31 and Part 35 Subpart O, which state that all procurement transactions will be conducted in a manner providing full and open competition.

7. Payment to consultants. Per 40 CFR Part 31.36(j), EPA's participation in the salary rate (excluding overhead and travel) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule, to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills and if the terms of the contract provide the recipient with responsibility for the selection, direction, and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. As of January 1, 2008, the rate is \$571.12 per day and \$71.39 per hour. This rate does not include overhead or travel costs and the recipient may pay these in accordance with its normal travel practices.

Subagreements with firms or individuals for services which are awarded using the procurement requirements in 40 CFR Parts 30 or 31, as applicable, are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction, and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR Part 31.36(j)(2) or Part 30.27(b).

8. The recipient shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The recipient shall abide by its respective 2 CFR 220, 225, or 230 (formerly OMB Circular A-21, A-87, or A-122), which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities.

9. In accordance with the policies set forth in EPA Order 1000.25 and Executive Order 13423 (Strengthening Federal Environmental, Energy and Transportation Management dated January 24, 2007), the recipient shall use recycled paper and double sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not

apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

10. The recipient agrees to ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance (FEMA ID is currently not required), or to find other information about the Act.

11. The recipient organization of this EPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 40 CFR 36.200 - 36.230. Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards, and keep this information on file during the performance of the award.

Those recipients who are individuals must comply with the drug-free provisions set forth in Title 40 CFR 36.300.

The consequences for violating this condition are detailed under Title 40 CFR 36.510. Recipients can access the Code of Federal Regulations (CFR) Title 40 Part 36 at [http://www.access.gpo.gov/nara/cfr/waisidx\\_06/40cfr36\\_06.html](http://www.access.gpo.gov/nara/cfr/waisidx_06/40cfr36_06.html).

12. The recipient shall fully comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons)." The recipient is responsible for ensuring that any lower tier covered transaction as described in Subpart B of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. The recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. The recipient acknowledges that failing to disclose the information as required at 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

Recipient may access the Excluded Parties List System at [www.epls.gov](http://www.epls.gov). This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

13. The cost principles of 2 CFR 225, 230, or 220 (formerly OMB Circular A-87, A-122, or A-21) are applicable to this award. Since there are no indirect costs included in the assistance budget, they are not allowable under this Assistance Agreement.

### **Programmatic Conditions**

P1. The U.S. EPA will be substantially involved in overseeing and monitoring this cooperative agreement. Involvement includes, but is not limited to: providing intense programmatic monitoring by reviewing, commenting, and providing prior approval of specific workplan activities and/or project phases and their associated costs; joint collaboration between EPA and the recipient and project goals, and providing technical assistance. Specific details are contained in the approved workplan.

P2. In accordance with 40 C.F.R. §31.40, Navajo EPA agrees to submit to the EPA Project Officer quarterly performance reports that include brief information on each of the following areas: 1) a comparison of actual accomplishments to the outputs and outcomes established in the assistance agreement workplan for the period; 2) the reasons for slippage if established outputs/outcomes were not met; and 3) additional pertinent information, including, when appropriate, analysis and formation of cost overruns or high unit costs. The final report is due

within 90 days from the end of the project period.

In accordance with 40 C.F.R. § 31.40 (d), Navajo EPA agrees to inform EPA as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan.

P3. The work plan submitted with the application is approved. A review of the work plan will be completed by January 31, 2009 and submitted with the Q1 Report to identify any revisions needed and to suggest changes to EPA.

All future changes in the final work plan activities, including training, deliverables and budgets that are proposed by the recipient will be communicated to EPA via phone, email or fax for consultation and agreement. When agreement is reached the recipient will prepare and send to EPA (via fax and/or letter) a concurrence memo containing the agreed-upon changes for signature and return by EPA.

P4. The Quality Assurance Project Plan(QAPP) for the Navajo Superfund Program (NSP) has been approved, but does not include laboratory analysis of samples for Site Screens. For NSP to perform those environmental measurements, the QAPP will need to be revised and approved.

P5. The recipient shall use the following drawdown account numbers to track the work performed in accordance with the final work plan as approved by EPA:

PA/SI = 09ZZ QB00  
SACA= 09MZ RS00

-- END OF DOCUMENT --